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Atlantic Coast Media, LLC, Andrew Surwilo,  
Urban Nutrition, LLC, Excell Now, LLC and  
Longevity, LLC

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

HEALTHY SOURCE, LLC, a Texas  
limited liability company; DAY  
CORPORATION, a Nevada  
Corporation,,

Plaintiffs,

v.

ANDREW SURWILO, an individual;  
URBAN NUTRITION, LLC, a Virginia  
limited liability company; ATLANTIC  
COAST MEDIA, LLC, a Virginia  
limited liability company;  
LONGEVITY, LLC, a Virginia limited  
liability company; EXCELL NOW,  
LLC, a Virginia limited liability  
company; PARADISE MARKETING  
PROS; and PRIME WORLD  
SYNDICATE,,

Defendants.

Case No. CV10-2953 RGK (JCx)  
*Hon. R. Gary Klausner*

**DECLARATION OF ANDREW  
SURWILO IN SUPPORT OF  
DEFENDANTS ATLANTIC COAST  
MEDIA, LLC, ANDREW  
SURWILO, URBAN NUTRITION,  
LLC, EXCELL NOW, LLC, AND  
LONGEVITY, LLC'S MOTION TO  
TRANSFER VENUE OR  
ALTERNATIVELY, TO DISMISS**

*[Notice of Motion, Motion, and  
Memorandum of Points & Authorities  
filed concurrently herewith; Proposed  
Order submitted concurrently herewith]*

Hearing:

Date: June 21, 2010

Time: 9:00 a.m.

Crtrm: 850

[Complaint Filed: April 21, 2010]

**DECLARATION OF ANDREW SURWILO**

I, Andrew Surwilo, hereby declare and say that:

1. I am a member and an officer of Atlantic Coast Media, LLC ("ACMG"), which is the sole member of Urban Nutrition, LLC ("Urban Nutrition"), Excell Now, LLC ("Excell Now"), and Longevity, LLC ("Longevity") and a named defendant in the above-captioned litigation. I have personal knowledge of the facts set forth herein, and if called as a witness could and would testify competently thereto.

2. I reside in New Jersey. I do not own any real property in California. I have never worked in California. I do not pay income tax or property tax in California. I do not conduct business or sell goods or services on behalf of myself in California.

3. ACMG is a Virginia limited liability company. ACMG is an integrated marketing company. ACMG's principal place of business is in New Jersey, where I also work.

4. Urban Nutrition, Excell Now, and Longevity are Virginia limited liability companies. ACMG is the only member of Urban Nutrition, Excell Now, and Longevity. Urban Nutrition, Excell Now and Longevity do not have any employees and are operated out of ACMG's offices in New Jersey.

5. Neither ACMG, Urban Nutrition, Excell Now, or Longevity maintain offices in California, own property in California, maintain bank accounts in California, or pay income tax or property tax in California.

6. My only involvement in any of the activities set forth in the Complaint herein was in my capacity as a member of ACMG. I did not participate in any event giving rise to the claims in the Complaint in my personal capacity.

7. I do not own any of the websites forming the basis for plaintiffs' Complaint, specifically the websites located at *www.mindreference.com*, *www.weknowmemory.com*, *www.dietblogtalk.com*, *www.weknowdiets.com*, *www.sensational.com*, *www.skinnyondiets.com*, *www.sensationaldiets.com*, *www.thedietlibrary.com*, *www.wikidietinfo.com*, *www.hubpages.com*, *www.legpros.com*, *www.modernaging.com*, and *www.thevitaminlist.com*. (the "Subject Websites").

8. I do not have responsibility for and do not author content posted on the Subject Websites.

9. I did not have responsibility for, did not select, and did not authorize the purchase of the term "Flavay" as a search engine keyword or placement of the term "Flavay" as a metatag on the Subject Websites.

**I Am Not The Alter Ego Of ACMG, Urban Nutrition, Excell Now, Or Longevity.**

10. I have never made personal use of ACMG's assets or received personal payment from ACMG except as compensation for my employment. I lack the authority to unilaterally direct the general policy or the day-to-day operations of ACMG.



1           11. I am a minority member of ACMG and ACMG is the sole  
2 member of Urban Nutrition. I am not employed by Urban Nutrition. I have never  
3 made personal use of Urban Nutrition's assets. I lack the authority to unilaterally  
4 direct the general policy or the day-to-day operations of Urban Nutrition.

5  
6           12. I am a minority member of ACMG and ACMG is the sole  
7 member of Excell Now. I am not employed by Excell Now. I have never made  
8 personal use of Excell Now's assets. I lack the authority to unilaterally direct the  
9 general policy or the day-to-day operations of Excell Now.

10  
11           13. I am a minority member of ACMG and ACMG is the sole  
12 member of Longevity. I am not employed by Longevity. I have never made  
13 personal use of Longevity's assets. I lack the authority to unilaterally direct the  
14 general policy or the day-to-day operations of Longevity.

15  
16 **New Jersey, Not California, Was The Center Activity For Actions Giving Rise**  
17 **To This Suit.**

18  
19           14. The claims in the Complaint concern reviews of a product named  
20 "Flavay" on the Subject Websites.

21  
22           15. ACMG oversees the Subject Websites from its offices in New  
23 Jersey. ACMG's database manager, online account manager, and web analyst are all  
24 located at its offices in New Jersey.

25  
26           16. The product reviews on the Subject Websites forming the basis  
27 for Plaintiffs' claims were not written in California. They were written by  
28 independent contractors who reside in New York.

1           17. The Subject Websites were not designed in California. They  
2 were designed by a third party web design company located in Mexico.

3  
4           18. The servers on which the Subject Websites are hosted are located  
5 in New Jersey.

6  
7           19. The Subject Websites are passive websites, which merely display  
8 information, including advertisements.

9  
10          20. The Subject Websites do not target or focus on California or  
11 California residents in any way. None of the information on the Subject Websites is  
12 directed to or limited to California.

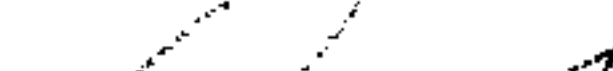
13  
14          21. Any and all purchases of products advertised on the Subject  
15 Websites on behalf of defendants were consummated in New Jersey at ACMG's  
16 offices. Payment was processed at ACMG's New Jersey's offices. Products were  
17 shipped from ACMG's New Jersey offices.

18  
19          22. Neither Urban Nutrition, Excell Now, or Longevity operate any  
20 of the Subject Websites.

21  
22          23. Most of the defense witnesses that have knowledge of this case  
23 are located in New Jersey. Aside from the independent contractors responsible for  
24 the subject reviews, who reside in New York, the balance of the witnesses with  
25 knowledge of the facts underlying plaintiffs' claims are ACMG employees. Most of  
26 those employees work out of ACMG's New Jersey headquarters on behalf of  
27 ACMG. The extended absence of ACMG's employees from their employment  
28 positions would significantly hinder ACMG's operations.



5 I declare under penalty of perjury under the laws of the United States of  
6 America that the foregoing is true and correct, and that I executed this declaration  
7 on May 18, 2010 at Jersey City , New Jersey.

  
\_\_\_\_\_  
Andrew Surwilo